

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-10 are pending in the present application, Claims 1, 6, 9, and 10 having been amended. Support for the present amendments is found, for example, in Applicants' Fig. 1. Applicants respectfully submit that no new matter is added.

In the outstanding Office Action, Claims 1 and 6 were rejected under 35 U.S.C. §102(e) as anticipated by Duvall et al. (U.S. Patent No. 6,876,858, hereinafter Duvall); and Claims 2-5 and 7 were rejected under 35 U.S.C. §103(a) as unpatentable over Duvall in view of Raith (U.S. Patent No. 6,856,807).

Applicants thank the Examiners for the courtesy of an interview extended to Applicants' representative on September 10, 2009. During the interview, differences between the present invention and the applied art, and the rejections noted in the outstanding Office Action were discussed. The Examiners acknowledged that the proposed amended claims appeared to distinguish over Duvall. However, the Examiners indicated that further searching would be needed before a determination of allowability could be made. Arguments and claim amendments presented during the interview are reiterated below.

With respect to the rejection of Claim 1 as anticipated by Duvall, Applicants respectfully submit that the amendment to Claim 1 overcomes this ground of rejection.

Amended Claim 1 recites, *inter alia*,

location requesting means for transmitting request information to request calculation of location information about the portable communication terminal, the request information being transmitted from the portable communication terminal to a location information calculating server for calculating the location information over a control channel for transmission of control data, wherein the communication partner equipment is not part of the location information calculating server.

Duvall does not disclose or suggest at least these elements of amended Claim 1.

When rejecting Claim 1 and addressing the claimed “location requesting means,” page 3 of the Office Action equates the claimed “location requesting means” to the “cellular phone transmit voice-requesting position or location data service. Fig. 2 ref 1-2.” However, the transmission by the cellular phone to the network operation call center is done on a user channel. In other words, elements 1 and 2 of Duvall’s Fig. 2 are on the user channel and not a control channel. Elements 3 and 4 of Duvall’s Fig. 2, what the Office appears to consider to be the control channel, has a ping (element 3) transmitted from the call center to the GPS/GPS-T, and the GPS/GPS-T “responds with Position and Status.” Assuming *arguendo* that elements 3 and 4 of Duvall are a control channel as alleged by page 3 of the Office Action,<sup>1</sup> there is no transmission of “request information to request calculation of location information about the portable communication terminal” from the portable communication device P of Duvall on such a control channel. In Duvall, according to Fig. 2 and the abstract as cited by the Office, the cellular phone P only uses a user channel (voice communication) to request position or location service from the call center.

In Duvall, there is no “the request information being transmitted from the portable communication terminal to a location information calculating server for calculating the location information over a control channel for transmission of control data that is different from the user channel.”

Page 3 of the Office Action also states “Control center and GPS/GPS-T can incorporate with each other as the calculating server.” To expressly rebut this position, Claim 1 is amended to recite “wherein the communication partner equipment is not part of the location information calculating server.”

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<sup>1</sup> Page 3 of the Office Action states “Fig 2 ref 3-4: control channel.”

Furthermore, Claim 1 is amended to clarify that the portable communication device acquires the location information from the location information calculating server and then transmits the location information received from the location information calculating server to the communication partner equipment. Duvall does not disclose or suggest that portable device P receives location information from the combination of the “Control center and GPS/GPS-T” (what the Office equates to the claimed location information calculating server) and then transmits the location information back to the control center (what Fig. 2 of Duvall labels a call center). Such an interpretation of Duvall does not make sense.

In view of the above-noted distinctions, Applicants respectfully submit that amended Claim 1 (and any claims dependent thereon) patentably distinguish over Duvall. Claims 6 and 9 recite elements analogous to those of Claim 1. Thus, Applicants respectfully submit that Claims 6 and 9 (and any claims dependent thereon) patentably distinguish over Duvall, for at least the reasons stated for Claim 1.

Addressing each of the further rejections, each of the further rejections is also traversed by the present response as no teachings in any of the further cited references to Raith can overcome the above-noted deficiencies of Duvall. Accordingly, it is respectfully requested that those rejections be withdrawn for similar reasons as discussed above.

Moreover, it is noted that the Office has failed to establish a *prima facie* case of obviousness for Claims 2-5 and 7. The Office Action merely states “[m]otivation to combine may be gleaned from the prior art contemplated.” This is not sufficient to establish an apparent reason as to why a person of ordinary skill in the art would combine the references as suggested by the Office Action. The U.S. Supreme Court stated: “To facilitate review, this analysis should be made explicit.”<sup>2</sup>

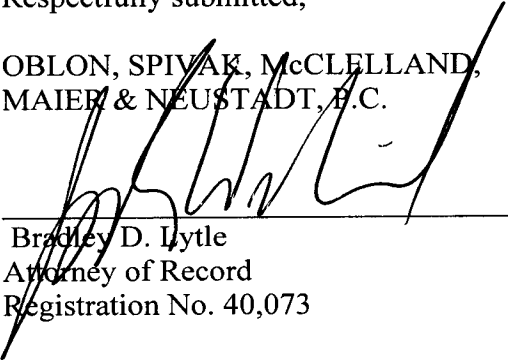
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<sup>2</sup> *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398 (2007).

Consequently, in light of the above discussion and in view of the present amendment, the present application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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